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MMA

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CALVIN WILLIAM ROTH, JR.,	:	CIVIL ACTION NO. 1:CV-00-1831
	:	
Petitioner	:	
	:	
v.	:	
	:	
COMMONWEALTH OF PENNSYLVANIA,	:	(Judge Rambo)
<u>ET AL.</u> ,	:	
	:	
Respondents	:	

FILED
HARRISBURG, PA

APR 02 2001

MEMORANDUM AND ORDER

MARY E. D'ANDREA, CLERK
Per _____
Deputy Clerk

Background

This is a petition for a writ of habeas corpus filed under 28 U.S.C. § 2254. The financial affidavit accompanying the prisoner's motion to proceed in forma pauperis indicates that he may not be required to pay the full statutory filing fee of \$5.00. Therefore, temporary approval to proceed in forma pauperis will be granted so the court may request from the warden or other appropriate official a summary of the transactions in the petitioner's account for the six (6) months preceding the filing of this petition.

The court may condition entitlement to proceed in forma pauperis upon payment of a partial filing fee after consideration of the income received within the six (6) month period preceding submission of the petition, the present balance in the prisoner's account, the average monthly balance in the prisoner's account and

other factors as may be brought to the court's attention. Jones v. Zimmerman, 752 F.2d 76, 78-79 (3d Cir. 1985); Bullock v. Suomela, 710 F.2d 102, 103 (3d Cir. 1983). The partial filing fee to be submitted shall not in any circumstances exceed 15% of the income received by the prisoner within the preceding six (6) months. See Evans v. Croom, 650 F.2d 521, 522, 525 (4th Cir. 1982, cert. denied, 454 U.S. 1153 (1982)).


The warden or other appropriate official will be directed to provide this court with a record of the transactions, inflow and outflow of funds through the prisoner's account, which occurred within the preceding six (6) month period and advise the court of the present balance in the prisoner's account. The court shall be advised whether the prisoner has institutional employment and, if so, his average monthly income from the job.

If the records are at another institution or if the records are for some reason unavailable, this court should be so informed.

Accordingly, **IT IS ORDERED THAT:**

1. The petitioner is granted temporary leave to proceed in forma pauperis, pursuant to Title 28 of the United States Code, § 1915(a).
2. Within ten (10) days of the date of this order, the warden or other appropriate official shall complete the attached affidavit form and provide the requested information to the court.

3. Pursuant to Jones v. Zimmerman, 752 F.2d 76 (3d Cir. 1985), the warden shall simultaneously provide a copy of the completed affidavit to Petitioner.


SYLVIA H. RAMBO
United States District Judge

Dated: April 2, 2001.

SR:jvw

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

* * MAILING CERTIFICATE OF CLERK * *

April 2, 2001

Re: 1:00-cv-01831 Roth v. Commonwealth of PA

True and correct copies of the attached were mailed by the clerk
to the following:

Calvin William Roth
SCI-HOUTZDALE
CY-1623
P.O.Box 1000
Houtzdale, PA 16698-1000

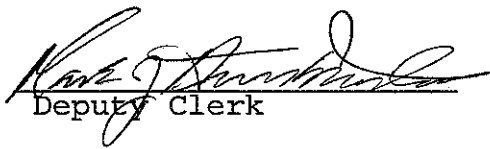
cc:

Judge	(X)	(X) Pro Se Law Clerk
Magistrate Judge	()	() INS
U.S. Marshal	()	() Jury Clerk
Probation	()	
U.S. Attorney	()	
Atty. for Deft.	()	
Defendant	()	
Warden	(X)	
Bureau of Prisons	()	
Ct Reporter	()	
Ctroom Deputy	()	
Orig-Security	()	
Federal Public Defender	()	
Summons Issued	()	with N/C attached to complt. and served by: U.S. Marshal () Pltf's Attorney ()
Standard Order 93-5	()	
Order to Show Cause	()	with Petition attached & mailed certified mail to: US Atty Gen () PA Atty Gen () DA of County () Respondents ()
Bankruptcy Court	()	
Other _____	()	

MARY E. D'ANDREA, Clerk

DATE: April 2nd, 2001

BY:


Deputy Clerk